

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

WP(C) .No. 16942 of 2007(P)

PETITIONER:

BANERJI MEMORIAL CLUB, ROUND NORTH,
THRISSUR - 680 001, REP. BY ITS
SECRETARY, DR.TONY AKKARA.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

1. STATE OF KERALA, REP. BY THE CHIER SECRETARY,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DISTRICT COLLECTOR, THRISSUR.
3. THE REVENUE DIVISIONAL OFFICER, THRISSUR.
4. THE TALUK TAHSILDAR, THRISSUR.

BY G.P. SHRI.BENJAMIN PAUL.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 4.6.2007 THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C) .No.16942 of 2007

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Dated this the 4th day of June, 2007

J U D G M E N T

The petitioner challenges Ext.P9 order of the R.D.O., the third respondent herein. The same is an order passed under the Land Conservancy Act directing the petitioner to vacate the premises mentioned in the order. The petitioner contends that the said order was served on him at 5 p.m. on 2.6.2007 and the petitioner filed an appeal at the camp office of the Collector on 3.6.2007. However, in spite of the fact that the petitioner has requested for a stay, without considering the same, the respondents have taken possession of the building in question.

2. I have heard the learned counsel for the petitioner as also the learned Government Pleader.

3. I am of opinion that when a party files an appeal with a prayer for stay, it was incumbent on

the appellate authority to consider the same in accordance with law. The law also provides for some time for the party to file an appeal. That being so, without passing orders on the stay application, it was not proper on the part of respondents 3 and 4 to take further proceedings in such haste. Accordingly, I direct that the petitioner shall be given back possession of the building forthwith and further proceedings shall only be after the Collector passes appropriate orders in the stay application and one week thereafter. Needless to say, interim prayer for stay shall be decided only after hearing the petitioner.

Writ petition is disposed of as above.

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Sd/-
S.SIRI JAGAN, JUDGE

///True copy///

P.A. to Judge.

